
1997 Wis Eth Bd 4
IMPROPER USE OF OFFICE; LOBBYING LAW

A legislator may use a library service offered to legislators by several public libraries only in connection with his or her legislative duties and responsibilities. (June 27, 1997)

Facts

¶ 1. This opinion is based upon these understandings:

- a. You are a member of the Legislature.
- b. Several public libraries, jointly, have offered you an opportunity to request books and articles electronically and to have the libraries deliver the books and articles to your office.

Questions

¶ 2. The Ethics Board understands your questions to be:

May you, consistent with laws administered by the Ethics Board, use the library service that the libraries have offered to you?

Discussion

¶ 3. The provision of the Ethics Code most pertinent to your question is §19.45(2), *Wisconsin Statutes*. Reduced to its elements, this statute provides:

No state public official
May use his or her office or position
To obtain anything of substantial value
For private benefit.¹

¹ Section 19.45(2), *Wisconsin Statutes*, provides:

19.45(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is

¶ 4. You are a state public official. The offer is specifically being made to legislators; thus, your acceptance of the offer would be a use of office. The Ethics Code defines “anything of value” to include a favor or service.² The service appears to be of substantial value as contrasted with something of mere token or inconsequential value. 1995 Wis Eth Bd 5 ¶6; 1993 Wis Eth Bd 08 ¶6; 7 Op. Eth. Bd. 1 (1983); 5 Op. Eth. Bd. 97 (1982). The only remaining question is whether the library service is primarily for your private benefit or primarily for the benefit to the state.

¶ 5. It is well established that public funds may be spent only for a public purpose.³ In general, the question of whether an expenditure of state funds is properly for a public purpose should be left to each agency to determine. However, what a state agency may conceive to be for its benefit may, nevertheless, result in a benefit to an official that is primarily private in nature. A case in point would be the now discontinued practice of making University football tickets available to legislators.

¶ 6. In our view, the library service being offered to you benefits the state only to the extent that you use that service in connection with your legislative duties and responsibilities. We can not identify a state benefit from the use of that service to obtain books and articles for personal use, unrelated to those duties and responsibilities.

¶ 7. We also note that Wisconsin’s lobbying law applies to your question. Section 13.695(4), *Wisconsin Statutes*, prohibits an official or employee who attempts to influence legislation on behalf of any state agency from using state funds to furnish anything of pecuniary value to a legislator. We believe this section applies whether such an official is directly furnishing the library service or whether the library service is being offered to legislators at the

associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

² Section 19.42(1), *Wisconsin Statutes*, provides:

19.42(1) “Anything of value” means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization.

³ See 7 Op. Eth. Bd. 19, 20 (1983). *City of West Allis v. Milwaukee County*, 39 Wis. 2d 356, cert. Denied, 392 U.S. 1064 (1968); *State ex rel. LaFollette v. Reuter*, 36 Wis. 2d 96 (1967); 66 Op. Att’y Gen. 46 (1977).

behest, or with the concurrence, of such official. However, to the extent that the library service can be said to be offered for the use of your legislative office, for use in connection with your official responsibilities, and not to you personally, we do not believe this section is violated.

Advice

¶ 8. The Ethics Board advises that you may use the library service being offered to legislators by several public libraries only in connection with your legislative duties and responsibilities.

WR968

